

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

UNITED STATES OF AMERICA	*	CRIMINAL DOCKET NO. 09-089
v.	*	SECTION: "L"
ROBERT P. McFARLAND	*	

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FACTUAL BASIS

If this case were to proceed to trial, the government would prove by competent evidence beyond a reasonable doubt that defendant, **ROBERT P. McFARLAND** ("**McFARLAND**"), is guilty of federal program fraud. The government would prove that **McFARLAND** embezzled and converted to his own use federal program funds received by the New Orleans Educational Talent Search Program, Inc. (NOETS), or one of its related entities, from the United States Department of Education, and converted these funds to his own use as charged in Count 1 of the Indictment now pending against the defendant in the Eastern District of Louisiana.

The government would introduce admissible evidence, including records kept in the usual course of business, from the Department of Education, the office of the Louisiana Secretary of State, Whitney Bank, Omni Bank, Dryades Bank, Liberty Bank, Harrah's New Orleans, Boomtown Casino, and the United States Bankruptcy Court, Eastern District of Louisiana, and other documents and evidence, to prove the following facts.

Beginning before January, 2001, and continuing at least through June, 2004, **McFARLAND**

was employed as the executive director of New Orleans Educational and Talent Search Program, Inc. (“NOETS”), a non-profit corporation, in New Orleans, Louisiana. In and before 2001 and continuing through at least 2004, NOETS obtained federal grant program funds from the United States Department of Education through its Talent Search Program. The goal of the Talent Search Program was to increase the number of youth from disadvantaged backgrounds to enroll in post-secondary educational institutions by identifying youths potentially qualified to attend post-secondary level education and encourage them to pursue such further education, to publicize the availability of student financial assistance to such youths, and to encourage persons having failed to complete secondary or post-secondary education to re-enter and complete those programs.

At some prior to January 1, 2001, and on October 18, 2001, as NOETS executive director, **McFARLAND** applied for and received on behalf of NOETS federal funds in grants from the Department of Education’s Talent Search Program. From 2001 until at least 2004, NOETS received approximately \$1,352,404.74 in federal program grant funds from the Department of Education through its Talent Search Program. Of this approximate total amount, over \$10,000 in federal program grant funds were received by NOETS in 2001, in 2002, in 2003, and in 2004; i.e., approximately \$445,480.00 in federal program funds were deposited in NOETS bank accounts in 2001, \$462,500.00 in federal program funds were deposited in NOETS bank accounts in 2002, \$337,519.46 in federal program funds were deposited in NOETS bank accounts in 2003, and \$106,905.18, in federal program funds were deposited in NOETS bank accounts in 2004. The last deposit of federal program funds from the Department of Education in 2004 was on or after April 28, 2004 . The federal program funds which NOETS received from the Department of Education were direct deposited by transfer from the Department of Education to one of NOETS bank accounts,

most often NOETS account at Omni Bank in New Orleans, account No. xxxxxxxx49. **McFARLAND** requested the deposit of federal funds into NOETS bank accounts from the Department of Education through the Grants Administration and Payment System (“GAPS”) hotline by internet or by telephone call.

NOETS had bank accounts at Omni Bank (account number ending in 1849), Whitney Bank (account number ending in 1339), Liberty Bank (account number ending in 1362), and Dryades Bank (account number ending in 1069) in New Orleans. **McFARLAND** had signature authority on all of NOETS accounts and frequently transferred funds among the NOETS accounts.

Beginning in or before January, 2001, and continuing through June, 2004, **McFARLAND**, while working as executive director of NOETS, embezzled an amount not to exceed \$400,000 in federal program funds from the Department of Education, by writing hundreds of checks on NOETS bank accounts, not including payroll checks for salary payments or retirement payments, to either “Robert P. McFarland” or to “Cash” with a variety of descriptions written in the memo section of the checks. The descriptions included “business activity,” “agency petty cash,” “agency activity,” “reimb expenses,” “petty cash,” “petty cash reimb,” “project activity,” “due to,” “agency operation,” and “due to: RD,” and other descriptions; the checks were either cashed by **McFARLAND** or deposited by him into his personal bank account. As part of the embezzlement of Department of Education funds provided to NOETS, and conversion to his own use, **McFARLAND** also obtained numerous cash advances from the NOETS bank account credit cards and also charged meals and other items at Ruth’s Chris Steakhouse, Charley G’s Restaurant, Pampy’s Restaurant, Pascale’s Manale Restaurant, and other restaurants and other types of businesses. As part of the embezzlement of Department of Education funds provided to NOETS, and conversion to his own use,

McFARLAND also made numerous withdrawals of cash from Automatic Teller Machines from NOETS accounts. Of the amount not to exceed \$400,000, which **McFARLAND** embezzled and converted from NOETS accounts, which funds were deposited by the Department of Education in accordance with grant applications by NOETS, these funds were not used to further the goals of Department of Education's Talent Search Program, but instead were used by **McFARLAND** for his personal benefit.

From on or before January, 2001, and continuing until or about June, 2004, **McFARLAND** gambled frequently at Harrah's Casino in New Orleans, Louisiana, and Boomtown Casino in Harvey, Louisiana. He maintained a "Diamond" players card from the time Harrah's Casino opened in New Orleans, Louisiana, on or about 2000, and he maintained this status until at least 2004.

On the income tax returns he filed for calendar years 2001 through 2004, he claimed a salary of no more than approximately \$87,500 in any one year from NOETS, unreimbursed business expenses of no less than \$12,217, and up to \$27,460, and gambling losses of \$39,800, offset by gambling wins of \$39,800, in only one of those years, i.e., 2003.

CAROL L. MICHEL
Assistant U.S. Attorney
La. Bar Roll No. 14226

Date

DONALD SAUVIAC
Attorney for the Defendant

Date

ROBERT McFARLAND
Defendant

Date